

S.B. CIVIL MISC. APPEAL NO.1171/2006.

Arjun Vs. Bhagwan Singh & Ors.

Date of Order :: 26th February 2007.**HON'BLE MR. JUSTICE DINESH MAHESHWARI**

Mr. Manish Pitaliya, for the appellant.

Mr. Anil Bachhawat, for the respondent No.2.

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This appeal against the award dated 21.08.2003 made by the Motor Accidents Claims Tribunal, Nimbahera in Claim Case No.26/2001 has been preferred on behalf of minor claimant Arjun by his natural guardian father, seeking enhancement over the amount of Rs.1,04,080/- together with interest @ 9% per annum awarded towards compensation for the loss suffered by the claimant due to the injuries sustained in a vehicular accident.

This appeal was barred by limitation by 12 days. After notice, such delay in filing the appeal was condoned on 04.08.2006 and then record was requisitioned.

While the appeal was being considered for admission and learned counsel for the insurer-respondent No.2 had appeared; during the course of submissions learned counsel for the appellant made a proposal that the appellant shall be satisfied if he would be allowed compensation in the

sum of Rs.1,50,000/- together with interest @ 6% per annum from the date of filing of the claim application.

Learned counsel appearing for the insurer sought time to respond to the proposition stated by the counsel for the appellant and today, learned counsel for the parties have placed on record the agreement arrived at between them for re-stating the award and allowing compensation to the claimant in the sum of Rs.1,50,000/- together with interest thereupon @ 6% per annum from the date of filing of the claim application; and it has been prayed that on the basis of settlement arrived at, the appeal may be disposed of.

Having examined the record of the case where the appellant, then about 14 years in age, is shown to have suffered fractures on right femur and tibia bones and had undergone extensive treatment, this Court is of opinion that the amount allowed by the Tribunal in the sum of Rs.1,04,080/- remains lower than a reasonable compensation; but the proposition as stated by the parties in consensus appears to be just and proper and the said sum of Rs.1,50,000/- appears to be that of just compensation admissible in this case. The insurer concerned has indeed been discreet in its approach in settling out the matter in appeal at its threshold; and such settlement proposal deserves approval.

Accordingly, this appeal is partly allowed and the award of compensation as made by the Tribunal is modified and instead, the claimant is allowed compensation in the sum of Rs.1,50,000/- together with interest @ 6% per annum from the date of filing of the claim application.

After adjusting the amount already paid, it shall be required of the insurer to deposit the remaining amount with the Tribunal within 30 days from today and the amount now to be deposited by the insurer shall be placed in a Monthly Income Scheme of Post Office in the name of the appellant for a minimum period of 6 years. There shall be no order as to costs of this appeal.

(DINESH MAHESHWARI), J.

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